

2013

Maine Board of Tax Appeals Annual Report. 2013

Maine Board of Tax Appeals

Maine Department of Financial and Administrative Services

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Chief Appeals Officer

Pursuant to 36 M.R.S. § 151-D(10), the following constitutes the first annual report of the Maine Board of Tax Appeals (the “Board”). Please direct any questions concerning this report to the Board’s Appeals Office at 134 State House Station, 108 Sewall Street, Augusta, Maine 04333-0134, or call 207-287-2866.

1. Initial Activities and Rulemaking

The Board was created by the Legislature in 2011 through the enactment of 36 M.R.S. § 151-D. The Board’s Appeals Office was put in place in July of 2012, and the current Board Members were appointed by Governor LePage and confirmed by the Legislature in September of 2012. The Board held its first meeting on October 22, 2012, at which the Board Members and Board staff discussed draft rules, how to proceed with appeals until those rules were in place, the fee the Board would charge for appeals conferences, and security procedures to protect the confidentiality of taxpayer information.

On December 26, 2012, the Board published for public comment a proposed version of Chapter 100, its rules of practice and procedure. The deadline for comments was January 28, 2013. The Board met on February 26, 2013 to review the comments it received and, after incorporating several of the suggestions therein, adopted Chapter 100 in its current form. The effective date of Chapter 100 was March 19, 2013. More recently, the Board has proposed

several amendments to Chapter 100 that are based on its experiences in the appeals that have been filed to date. These proposed amendments were published for public comment on November 27, 2013 and comments are due by January 7, 2014.

Both the current and the proposed versions of Chapter 100 may be found on the Board's website at <http://www.maine.gov/boardoftaxappeals>.

2. Appeals

There were thirty tax appeals filed with the Board prior to December 31, 2013, the first having been received by the Board on October 10, 2012. Taxpayers requested appeals conferences in twenty-four of those appeals, and twelve appeals conferences were conducted by the Board's Appeals Officers.¹

The amounts of tax, penalties and interest at issue in the appeals filed with the Board break down as follows:

\$1,000 - \$5,000:	6
\$5,001 - \$50,000:	12
\$50,001 - \$100,000:	2
\$100,001 - \$200,000:	4
\$200,001 - \$500,000:	2
<u>More than \$500,001:</u>	<u>4 (one of which was more than \$1 million)</u>
Total	30

The types of taxes at issue in the appeals that have been filed with the Board are:

Individual Income Tax:	7
Corporate Income Tax:	3
Estate Tax:	2
Sales/Use Tax:	14
Service Provider Tax:	3
<u>Abandoned Deposits (Bottle Bill)</u>	<u>1</u>
Total:	30

¹ This discrepancy is due to the number of cases that settled or were otherwise resolved before the date scheduled for the conference and the fact that a conference has been requested but not yet held in some cases currently pending before the Board.

The Board has issued decisions resolving nine of the appeals that have come before it. The total amount of tax, interest and penalties at issue in those nine appeals was \$1,638,927. Five of these appeals were decided wholly in favor of Maine Revenue Services (“MRS”), two decisions upheld but adjusted the underlying assessment issued by MRS and two decisions cancelled the underlying assessment. MRS has appealed to Superior Court both of the Board’s decisions cancelling MRS’s assessment, and one taxpayer has appealed the Board’s decision in favor of MRS. The Superior Court has yet to issue a ruling in any of these appeals of Board decisions.

Of the remaining twenty-one appeals filed with the Board, fourteen have been settled or otherwise resolved as a result of discussions between taxpayers, Board staff and Maine Revenue Services. The total amount of tax, interest and penalties at issue in those fourteen appeals was \$2,006,311. Seven appeals are still pending before the Board and the total amount of tax, interest and penalties at issue in those appeals is \$1,291,201.

Two of the decisions issued by the Board have been posted on its website in redacted form.

3. Outreach

The Board has engaged in a significant amount of outreach to raise awareness of the Board and its mission to provide an efficient, just and inexpensive resolution of tax appeals. The Chief Appeals Officer and the Appeals Officers have presented at the Maine Tax Practitioner’s Institute, the Maine Tax Forum and the Frank M. Carter Tax Institute at Husson University. Board Members and staff have designed a brochure describing the Board and its appeals process, which has been distributed to members of the Legislature as well as tax practitioners. Other

introductory and informational materials have also been distributed to Pine Tree Legal Services, chambers of commerce, and professional organizations representing certified public accountants, enrolled agents and other tax preparers. Finally, the Board has stayed in regular contact with the accounting and legal communities, providing them with notice of all Board meetings, rulemaking and other activities, and having Board staff attend training seminars in order to describe the Board and its process.

The Board looks forward to receiving further input from the groups mentioned above, as well as the Legislature and Maine Revenue Services, as we continue to work to improve our appeals process and increase taxpayers' awareness of the availability of that process.

Respectfully submitted by the Maine Board of Tax Appeals,

William J. Kelleher
Chairman